

FIRST REGULAR SESSION

SENATE BILL NO. 400

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DEMPSEY.

Read 1st time February 19, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1757S.011

AN ACT

To amend chapter 324, RSMo, by adding thereto twenty-four new sections relating to the regulation of the auto body repair industry, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto twenty-four
2 new sections, to be known as sections 324.1180, 324.1183, 324.1186, 324.1189,
3 324.1192, 324.1195, 324.1198, 324.1204, 324.1210, 324.1213, 324.1216, 324.1219,
4 324.1222, 324.1225, 324.1228, 324.1231, 324.1234, 324.1237, 324.1240, 324.1243,
5 324.1246, 324.1249, 324.1252, and 324.1255, to read as follows:

**324.1180. For purposes of sections 324.1180 to 324.1261, the
2 following terms mean:**

3 (1) "Auto body physical damage appraiser", any individual who
4 prepares, compares, or works in any way with damage estimates
5 prepared on motor vehicles not owned by that individual, company, or
6 their agents when repair of the vehicle will occur in Missouri;

7 (2) "Auto body repair facility", shall have the same meaning as
8 "body shop" as set forth in 301.010 RSMo, including paintless dent
9 repair;

10 (3) "Board", the board of auto body repair;

11 (4) "Department", the department of insurance, financial
12 institutions, and professional registration;

13 (5) "Director", the director of the division of professional
14 registration.

15 (6) "Division", the division of professional registration in the
16 department of insurance, financial institutions and professional
17 registration;

18 (7) "Practice of auto body repair", rendering, offering to render

19 or supervising those who, for compensation, repair physical damage on
20 motor vehicles by mending, straightening, replacing body parts, or
21 painting, including paintless dent repair.

324.1183. 1. There is hereby established within the division, the
2 "Board of Auto Body Repair" which shall guide, advise and make
3 recommendations to the division and fulfill other responsibilities
4 designated by sections 324.1180 to 324.1261.

5 2. The board shall consist of seven members, including one
6 public member, appointed by the governor with the advice and consent
7 of the senate. Each member of the board shall be a citizen of the
8 United States, a resident of this state for at least one year preceding
9 appointment and a registered voter. Two members of the board shall
10 be drawn from the auto insurance industry. Four members of the board
11 shall be drawn from the auto body repair industry. Members shall
12 serve on the board until a successor is appointed by the governor. The
13 membership of the board shall be geographically dispersed with no
14 more than one member appointed from the same congressional district.

15 3. Of the initial members appointed, three members shall be
16 appointed for four years, two members shall be appointed for three
17 years and two members shall be appointed for two years. Thereafter,
18 all members shall be appointed to serve four-year terms.

19 4. A vacancy in the office of a member shall be filled by
20 appointment by the governor for the remainder of the unexpired term.

21 5. The board shall hold an annual meeting at which it shall elect
22 from its membership a chairperson and vice chairperson. The board
23 may hold such additional meetings as may be required in the
24 performance of its duties. A quorum of the board shall consist of a
25 majority of its members.

26 6. The governor may remove a board member for misconduct,
27 incompetence or neglect of official duties after giving the board
28 member written notice of the charges and allowing the board member
29 an opportunity to be heard. Members can also be terminated for the
30 following reasons: change of legal residence by moving out of the state;
31 missing three consecutive meetings; or having their professional license
32 revoked or suspended.

33 7. The public member shall be, at the time of appointment, a
34 citizen of the United States; a resident of this state for a period of one

35 year preceding appointment and a registered voter; but may not have
36 been engaged in any business or profession licensed or regulated by the
37 board or be an immediate family member of a person engaged in any
38 business or profession licensed or regulated by the board; and may not
39 have had a material, financial interest in the practice of auto body
40 repair or in an activity or organization directly related to any
41 profession licensed or regulated under sections 324.1180 to
42 324.1261. The duties of the public member shall not include any
43 determination of the technical requirements to be met for licensure,
44 whether a candidate for licensure meets such technical requirements,
45 or of the technical competence or technical judgment of a licensee or
46 a candidate for licensure.

47 8. Notwithstanding any other provision of law to the contrary,
48 any appointed member of the board shall receive as compensation an
49 amount established by the director not to exceed seventy dollars per
50 day for board business plus actual and necessary expenses.

51 9. No licensing activity or other statutory requirements shall
52 become effective until expenditures or personnel are specifically
53 appropriated for the purpose of conducting the business as required to
54 administer the provisions of 324.1180 to 324.1261 and the initial rules
55 filed have become effective.

56 10. The board shall keep records of its official acts, and certified
57 copies of any such records attested by a designee of the board shall be
58 received as evidence in all courts to the same extent as the board's
59 original records would be received.

60 11. There is hereby created in the state treasury the "Board of
61 Auto Body Repair Fund", which shall consist of money collected under
62 sections 324.1180 to 324.1261. The state treasurer shall be custodian of
63 the fund and shall approve disbursements from the fund in accordance
64 with sections 30.170 and 30.180, RSMo. Upon appropriation, money in
65 the fund shall be used solely for the administration of sections 324.1180
66 to 324.1261. Notwithstanding the provisions of section 33.080, RSMo, to
67 the contrary, money in this fund shall not be transferred and placed to
68 the credit of general revenue until the amount in the fund at the end
69 of the biennium exceeds three times the amount of the appropriation
70 from the fund for the preceding fiscal year. The state treasurer shall
71 invest moneys in the fund in the same manner as other funds are

72 invested. Any interest and moneys earned on such investments shall be
73 credited to the fund.

324.1186. 1. The board shall establish and administer a licensing
2 program for the licensure of auto body repair facilities. A business or
3 person may not engage in operating an auto body repair facility unless
4 such person or entity is licensed by the board under the provisions of
5 sections 324.1180 to 324.1222. An auto body repair facility shall be
6 licensed by the board upon submission and approval of a written
7 application and payment of an annual license fee of two hundred fifty
8 dollars.

9 2. Application for a license shall be on a form prescribed by the
10 board, and shall contain all information the board may require by rule
11 and regulation.

12 3. Applications for a new or renewal of an auto body repair
13 facility license shall be reviewed by the board and a license shall be
14 issued or denied within ninety days following receipt by the board of
15 the completed application and supporting documents.

16 4. Upon the sale or other transfer of ownership interest in a
17 licensed auto body repair facility, the new owner may continue to
18 operate under the previous owner's auto body repair facility license for
19 a period of ninety days, during which time the new owner shall submit
20 an application for licensure on its own behalf.

324.1189. In order to qualify for an auto body repair facility
2 license or a renewal of a license under sections 324.1180 to 324.1222, an
3 auto body repair facility shall:

4 (1) Have all required licenses, permits, and registrations for the
5 conduct of business including, but not limited to: a federal tax
6 identification number; a Missouri tax identification number; a
7 hazardous waste license and an Environmental Protection Agency
8 identification number or evidence of exemption from such permits; and
9 any other licenses and permits as the board may find applicable;

10 (2) Provide proof of insurance coverage for damage to property
11 and for liability arising from bodily injury, including, but not limited
12 to: garage keeper's liability insurance or other type of liability
13 insurance that protects customers' property and provides the public
14 and employees with remedies for liability arising from the business
15 operations; workers' compensation insurance coverage as required by

16 chapter 287, RSMo; fire insurance, and any other insurance coverage
17 in an amount and form that conforms to the rules and regulations
18 adopted by the board;

19 (3) Provide evidence of compliance with the Environmental
20 Protection Agency and Occupational Safety and Health Administration
21 requirements for annual training in safety and environmental concerns
22 as set forth in 29 CFR 1910.1200(h)(1), 29 CFR 1910.120(e)(8), 40 CFR
23 68.71, 40 CFR 721.72(d), and 40 CFR 763;

24 (4) Provide evidence that at least one employee or eighty percent
25 of the employees performing repairs at the auto body repair facility,
26 whichever is greater, are certified by the National Institute for
27 Automotive Service Excellence (ASE) for the type of work being
28 performed within one year of initial licensure;

29 (5) Provide evidence, for renewal of a license, that at least one
30 employee or eighty percent of the employees performing repairs at the
31 auto body repair facility, whichever is greater, has completed at least
32 eight hours of approved continuing education annually;

33 (6) (a) Possess proper equipment necessary for the practice of
34 auto body repair as determined by the board based on industry
35 standards and as set forth in the board's rules and regulations; and

36 (b) An applicant for an auto body repair facility license who does
37 not meet the requirements of paragraph (a) of this subdivision may
38 satisfy those requirements by entering into and maintaining a written
39 agreement or agreements with another entity to perform the services
40 for which the equipment is required, provided, that the other party to
41 the agreement satisfies the equipment requirements set forth in board
42 regulations;

43 (7) Possess, maintain, and utilize for all spray painting refinish
44 operations:

45 (a) An enclosed area for refinishing which complies with all
46 applicable safety, fire, and environmental regulations;

47 (b) The means to supply fresh air to workers within the spray
48 area when using materials that require breathable air to be supplied;
49 and

50 (c) A filtration method to reduce particulates from the air
51 exhausted from the spray area which is accepted by the industry in
52 accordance with standards established by the state or federal

53 government;

54 (8) Possess and maintain a current auto body repair facility
55 reference source for estimating the cost of repairs in either book or
56 computerized form which is generally accepted by the auto body repair
57 industry.

324.1192 Businesses that specialize solely in particular auto body
2 repair services, specifically: wheel reconditioning, leather and vinyl
3 repair, air bag replacement, rust proofing, four wheel alignment, air
4 conditioning services, mechanical repairs, or glass replacement
5 services, are not required to obtain an auto body repair facility license
6 in order to conduct business.

324.1195. 1. An auto body repair facility that substantially
2 complies with the licensure requirements of sections 324.1180 to
3 324.1222 may obtain a temporary license for up to ninety days to
4 provide additional time to come into compliance with licensing
5 standards such as training requirements and equipment and other
6 exigent circumstances as the board may prescribe by rule or regulation.

7 2. An auto body repair facility applying for a license which can
8 show a continuous operation of business for a five-year period prior to
9 August 28, 2009 shall be able to obtain a provisional license allowing
10 one calendar year to meet any of the requirements that they do not
11 meet at the time of application with the exception of continuing
12 education requirements which must be commenced within ninety days
13 of the issuance of license. If after the period of one year the auto body
14 repair facility has not met the licensing requirements of sections
15 324.1180 to 324.1222, the board shall notify the applicant by certified
16 mail of the failure to qualify for a license and that operation must cease
17 until such time as the requirements of sections 324.1180 to 324.1222 are
18 met. If the auto body repair facility fails to cease operations, the board
19 may levy a fine of two hundred fifty dollars per calendar day that the
20 facility continues to operate.

324.1198. Every licensed auto body repair facility shall display
2 their license and retail labor rates in a prominent location so that it is
3 readily visible to the facility's customers.

324.1204. The board shall maintain a current roster of all auto
2 body repair facilities that are licensed to do business in the state of
3 Missouri. The roster shall be available electronically in a format

4 prescribed by the board.

324.1210. 1. The board may refuse to issue or deny renewal of
2 any license or permit required under sections 324.1180 to 324.1222 for
3 failure to comply with the provisions of sections 324.1180 to 324.1222 or
4 any lawful regulations promulgated by the board to implement its
5 provisions. The board shall notify the applicant in writing of the
6 reasons for the refusal and shall advise the applicant of their right to
7 file a complaint with the administrative hearing commission as
8 provided by chapter 621, RSMo.

9 2. The board may cause a complaint to be filed with the
10 administrative hearing commission as provided by chapter 621, RSMo,
11 against any holder of any license required by sections 324.1180 to
12 324.1222 or any facility which has failed to renew or has surrendered
13 their license for any one or any combination of the following causes:

14 (1) Being finally adjudicated and found guilty, or having entered
15 a plea of guilty or nolo contendere, in a criminal prosecution pursuant
16 to the laws of any state or of the United States, for any offense
17 reasonably related to the qualifications, functions, or duties of any
18 activity licensed or regulated under sections 324.1180 to 324.1222, for
19 any offense an essential element of which is fraud, dishonesty, or an act
20 of violence, whether or not sentence is imposed;

21 (2) Use of fraud, deception, misrepresentation or bribery in
22 securing any certificate, permit, or license issued under sections
23 324.1180 to 324.1222;

24 (3) Obtaining or attempting to obtain any fee, charge, tuition, or
25 other compensation by fraud, deception, or misrepresentation;

26 (4) Incompetency, misconduct, gross negligence, fraud,
27 misrepresentation or dishonesty in the performance of the functions or
28 duties of any activity licensed or regulated by sections 324.1180 to
29 324.1222;

30 (5) Violation of, or assisting or enabling any person to violate,
31 any provision of sections 324.1180 to 324.1222, or of any lawful rule or
32 regulation adopted by the board under sections 324.1180 to 324.1222;

33 (6) Posing as a facility holding a license or allowing any person
34 or facility to use his or her license;

35 (7) Disciplinary action against the holder of a license or other
36 right to practice any activity regulated by sections 324.1180 to 324.1222

37 granted by another state, territory, federal agency or country upon
38 grounds for which revocation or suspension is authorized in this state;

39 (8) Issuance of a license based upon a material mistake of fact;

40 (9) Violation of any professional trust or confidence;

41 (10) Use of any advertisement or solicitation which is false,
42 misleading or deceptive to the general public or persons to whom the
43 advertisement or solicitation is primarily directed;

44 (11) Refusal of any applicant or licensee to cooperate with the
45 board during any investigation;

46 (12) Failure to display or present a valid license if so required
47 by sections 324.1180 to 324.1222 or any rule promulgated pursuant
48 thereto;

49 (13) Operating an auto body repair facility without a license as
50 required under section 324.1186;

51 (14) Repeated negligence in the performance of the functions or
52 duties of any activity licensed by 324.1180 to 324.1222.

53 3. After the filing of such complaint, the proceedings shall be
54 conducted in accordance with the provisions of chapter 621,
55 RSMo. Upon a finding by the administrative hearing commission that
56 the grounds for disciplinary action are met, as provided in subsection
57 2 of this section, the board shall censure or place the auto body repair
58 facility on probation in such terms as the board deems appropriate for
59 a period not to exceed five years, or may suspend the license for a
60 period not to exceed three years, or revoke the license of the facility. No
61 new license shall be issued to an auto body repair facility for one year
62 after the revocation. Any facility whose license has been revoked twice
63 within a ten-year period shall not be eligible for relicensure.

64 4. The applicant or licensee shall have the right to appeal the
65 board's decision in the manner provided in chapter 536, RSMo.

66 5. The board may notify the proper licensing authority of any
67 other state in which the auto body repair facility whose license was
68 disciplined is also licensed of the discipline.

69 6. Any person, organization, association, or corporation who
70 reports or provides information to the board under the provisions of
71 sections 324.1180 to 324.1222 and who does so in good faith shall not be
72 subject to an action for civil damages as a result thereof.

324.1213. 1. Upon proper application by the board, a court of

2 competent jurisdiction may grant an injunction, restraining order, or
3 other order as may be appropriate to enjoin a person or business from:

4 (1) Offering to engage or engaging in the performance of any acts
5 or practices for which a certificate of registration or authority, permit,
6 or license is required by sections 324.1180 to 324.1222 upon a showing
7 that such acts or practices were performed or offered to be performed
8 without a certificate of registration or authority, permit, or license; or

9 (2) Engaging in any practice or business authorized by a
10 certificate of registration or authority, permit, or license issued under
11 sections 324.1180 to 324.1222.

12 2. Any such actions shall be commenced either in the county in
13 which such conduct occurred or in the county in which defendant
14 resides.

15 3. Any action brought under this section shall be in addition and
16 not in lieu of any penalty provided by law and may be brought
17 concurrently with other actions to enforce sections 324.1180 to 324.1222.

324.1216. 1. The board may make survey inspections during
2 normal business hours. Each facility shall allow the board or its
3 authorized representatives to enter upon its premises during normal
4 business hours for the purpose of conducting any survey inspection.

5 2. After completion of each board survey inspection, a written
6 report of the findings with respect to the business' compliance or
7 noncompliance with the provisions of sections 324.1180 to 324.1222 and
8 the standards established hereunder as well as a list of deficiencies
9 found shall be prepared. A copy of the report and the list of
10 deficiencies found shall be sent to the business within fifteen business
11 days following the survey inspection. The list of deficiencies shall
12 specifically state the statute or rule which the business is alleged to
13 have violated. If the business acknowledges the deficiencies found by
14 the survey inspection, the business shall inform the board of the time
15 necessary for compliance and shall file a plan of correction with the
16 board. If the business does not acknowledge the deficiencies, or file an
17 acceptable plan of correction with the board or timely complete an
18 acceptable plan of correction, the board may file a complaint with the
19 administrative hearing commission as set forth and as provided in
20 sections 324.1180 to 324.1222.

324.1219. The board is authorized to promulgate rules and

2 regulations to administer and implement the provisions of sections
3 324.1180 to 324.1222. Any rule or portion of a rule, as that term is
4 defined in section 536.010, RSMo, that is created under the authority
5 delegated in this section shall become effective only if it complies with
6 and is subject to all of the provisions of chapter 536, RSMo, and, if
7 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
8 are nonseverable and if any of the powers vested with the general
9 assembly pursuant to chapter 536, RSMo, to review, to delay the
10 effective date, or to disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any rule
12 proposed or adopted after August 28, 2009, shall be invalid and void.

324.1222. 1. The board shall, at their own initiative or in
2 response to complaints, investigate on a continuing basis and gather
3 evidence of violations of sections 324.1180 to 324.1222, or of any
4 regulation adopted thereunder, by auto body repair facilities.

5 2. The board may, upon a finding by a court that any person or
6 entity has violated any provision of sections 324.1180 to 324.1222,
7 impose a civil penalty in an amount not to exceed five thousand dollars
8 for the first occurrence of conducting business as an auto body repair
9 facility without a license. Each subsequent occurrence described in
10 this subsection is subject to a civil penalty not to exceed ten thousand
11 dollars. The civil penalties authorized by this section are in addition
12 to remedies afforded to the board in section 324.1213.

324.1225. 1. The board shall establish and administer a licensing
2 program for auto body physical damage appraisers. A person may not
3 engage in the business or profession of an auto body physical damage
4 appraiser on behalf of any insurance company, firm, or corporation
5 engaged in the adjustment or appraisal of motor vehicle claims unless
6 such person is licensed by the board. No person shall appraise a motor
7 vehicle for auto body damage or engage in the profession of an auto
8 body physical damage appraiser in the state of Missouri unless such
9 person has been duly licensed under the provisions of sections 324.1225
10 to 324.1261. An auto body physical damage appraiser shall be licensed
11 by the board upon submission and approval of a written application
12 and payment of a fee of one hundred dollars. An auto body physical
13 damage appraiser license issued under this section shall expire two
14 years from the date of issuance unless renewed according to the rules

15 adopted by the board. The fee for renewing a license issued under this
16 section shall be one hundred dollars. If a license issued under sections
17 324.1225 to 324.1261 lapses or if such license is not renewed in a timely
18 manner, then a fee to be set forth in board rules or regulation shall
19 accompany the renewal application.

20 2. Application for a license under sections 324.1225 to 324.1261
21 shall be on a form prescribed by the board, and shall contain all
22 information the board may require by rule and regulation.

23 3. Applications for a new or renewal of an auto body physical
24 damage appraiser license shall be reviewed by the board and a license
25 issued or denied within ninety days following receipt by the board of
26 the completed application and supporting documents.

27 4. To qualify for an auto body physical damage appraiser's
28 license under this section, an individual shall:

29 (1) Possess Damage Analysis and Estimating Certification, B6
30 certification, from the National Institute for Automotive Service
31 Excellence; and

32 (2) Provide satisfactory evidence to the board that any entity on
33 whose behalf the individual will prepare or alter damage estimates is
34 licensed as a corporation to conduct business within Missouri.

35 5. As a condition for renewal of a license, an auto body physical
36 damage appraiser shall be required to successfully complete eight
37 hours of continuing education that meet the standards established by
38 the board's regulations.

39 6. An auto body physical damage appraiser license shall be
40 considered lapsed if not renewed within thirty days of the expiration
41 date of the license.

324.1228. If an applicant for a license can verify that the
2 applicant has been employed continuously as a physical damage
3 appraiser or adjuster for a five-year period prior to August 28, 2009, the
4 licensing fee of one hundred dollars shall entitle the individual to a
5 provisional appraiser license upon application allowing one calendar
6 year to obtain Damage Analysis and Estimating Certification from the
7 National Institute for Automotive Service Excellence. If after one year,
8 the auto body physical damage appraiser does not meet the licensing
9 requirements of sections 324.1225 and 324.1261, the board shall notify
10 the applicant by certified mail of the failure to qualify for a license and

11 that they must cease operating as an auto body physical damage
12 appraiser until such time as the requirements of sections 324.1225 to
13 324.1261 are met.

324.1231. 1. In the case of catastrophic losses such as floods, hail,
2 or tornados, an auto body physical damage appraiser from any other
3 state requiring licensure under sections 324.1225 to 324.1261 shall have
4 his or her license from that state recognized by submitting information
5 as required by the board and payment of a twenty five dollar Missouri
6 temporary permit fee.

7 2. If an out of state auto body physical damage appraiser does
8 not have a license from his or her home state, he or she shall apply to
9 the board for a temporary permit allowing work under the supervision
10 of a duly licensed Missouri auto body physical damage appraiser after
11 submitting a fifty dollar temporary permit fee.

12 3. As provided in subsections 1 and 2 of this section, an out-of-
13 state auto body physical damage appraiser shall be allowed to perform
14 his or her normal activities as long as he or she can produce evidence
15 in the form of a copy of the application for a temporary permit.

16 4. In cases where the temporary permit is not issued by the
17 board, the board shall notify the auto body physical damage appraiser
18 immediately by either United States mail or electronic mail. Upon
19 receipt of such notice, the auto body physical damage appraiser shall
20 immediately cease performing as an auto body physical damage
21 appraiser in Missouri.

22 5. Any person violating the provisions of this section shall be
23 subject to a civil penalty of five hundred dollars.

324.1234. 1. The board may refuse to issue or deny renewal of
2 any license or permit required under sections 324.1225 to 324.1261 for
3 failure to comply with the provisions of sections 324.1225 to 324.1261 or
4 any lawful regulations promulgated by the board to implement its
5 provisions. The board shall notify the applicant in writing of the
6 reasons for the refusal and shall advise the applicant of his or her right
7 to file a complaint with the administrative hearing commission as
8 provided by chapter 621, RSMo.

9 2. The board may cause a complaint to be filed with the
10 administrative hearing commission as provided by chapter 621, RSMo,
11 against any holder of any license required by sections 324.1225 to

12 324.1261 or any person who has failed to renew or has surrendered his
13 or her license for any one or any combination of the following causes:

14 (1) Use or unlawful possession of any controlled substance, as
15 defined in chapter 195, RSMo, or alcoholic beverage to an extent that
16 such use impairs a person's ability to perform the work of any activity
17 licensed or regulated by sections 324.1225 to 324.1261;

18 (2) Being finally adjudicated and found guilty, or having entered
19 a plea of guilty or nolo contendere, in a criminal prosecution pursuant
20 to the laws of any state or of the United States, for any offense
21 reasonably related to the qualifications, functions or duties of any
22 activity licensed or regulated under sections 324.1225 to 324.1261, for
23 any offense an essential element of which is fraud, dishonesty or an act
24 of violence, whether or not sentence is imposed;

25 (3) Use of fraud, deception, misrepresentation or bribery in
26 securing any certificate, permit, or license issued under sections
27 324.1225 to 324.1261;

28 (4) Obtaining or attempting to obtain any fee, charge, tuition or
29 other compensation by fraud, deception or misrepresentation;

30 (5) Incompetency, misconduct, gross negligence, fraud,
31 misrepresentation or dishonesty in the performance of the functions or
32 duties of any activity licensed or regulated by sections 324.1225 to
33 324.1261;

34 (6) Violation of, or assisting or enabling any person to violate,
35 any provision of sections 324.1225 to 324.1261, or of any lawful rule or
36 regulation adopted by the board under sections 324.1225 to 324.1261;

37 (7) Impersonation of any person holding a license or allowing
38 any person to use his or her license;

39 (8) Disciplinary action against the holder of a license or other
40 right to practice any activity regulated by sections 324.1225 to 324.1261
41 granted by another state, territory, federal agency or country upon
42 grounds for which discipline is authorized in this state;

43 (9) For an individual, being finally adjudged insane or
44 incompetent by a court of competent jurisdiction;

45 (10) Issuance of a license based upon a material mistake of fact;

46 (11) Violation of any professional trust or confidence;

47 (12) Use of any advertisement or solicitation which is false,
48 misleading or deceptive to the general public or persons to whom the

49 advertisement or solicitation is primarily directed;

50 (13) Violation of the drug laws or rules and regulations of this
51 state, any other state or the federal government;

52 (14) Refusal of any applicant or licensee to cooperate with the
53 board during any investigation;

54 (15) Failure to display or present a valid license if so required
55 by sections 324.1225 to 324.1261 or any rule promulgated pursuant
56 thereto;

57 (16) Repeated negligence in the performance of the functions or
58 duties of any activity licensed by 324.1225 to 324.1261.

59 3. After the filing of such complaint, the proceedings shall be
60 conducted in accordance with the provisions of chapter 621,
61 RSMo. Upon a finding by the administrative hearing commission that
62 the grounds for disciplinary action are met, as provided in subsection
63 2 of this section, the board may, singly or in combination, censure or
64 place the person named in the complaint on probation on such terms
65 and conditions as the board deems appropriate for a period not to
66 exceed five years, or may suspend for a period not to exceed three
67 years, or revoke the license in accordance with section 324.1237.

68 4. An individual whose license has been revoked shall wait one
69 year from the date of revocation to apply for relicensure. Relicensure
70 shall be at the discretion of the board after compliance with all the
71 requirements of sections 324.1225 to 324.1261 relative to the licensing
72 of an applicant for the first time. Any individual whose license has
73 been revoked twice within a ten-year period shall not be eligible for
74 relicensure.

75 5. The board may notify the proper licensing authority of any
76 other state in which the person whose license was disciplined was also
77 licensed of the discipline.

78 6. Any person, organization, association or corporation who
79 reports or provides information to the board under the provisions of
80 sections 324.1225 to 324.1261 and who does so in good faith shall not be
81 subject to an action for civil damages as a result thereof.

324.1237. 1. The board may impose a civil penalty up to a
2 maximum of than two thousand five hundred dollars for a single
3 violation of sections 324.1225 to 324.1261 occurring within a calendar
4 year.

5 2. The board may, on a second offense within a calendar year,
6 impose a civil penalty not to exceed three thousand five hundred
7 dollars. The board may also suspend the physical damage appraiser's
8 license for a period of not less than six months nor more than twenty-
9 four months.

10 3. Any person who has his or her physical damage appraiser's
11 license suspended three times in a two calendar year period shall have
12 his or her license revoked.

13 4. The board shall impose a civil penalty of five thousand dollars
14 against any person who practices as an auto body physical damage
15 appraiser without a license. The board shall seek an injunction in
16 circuit court to require the auto body physical damage appraiser to
17 cease and desist operations for failing to comply with sections 324.1225
18 to 324.1261.

 324.1240. The board shall maintain a current roster of all auto
2 body physical damage appraisers that are licensed to do business in the
3 state of Missouri. The roster shall be available electronically in a
4 format prescribed by the board.

 324.1243. A licensed auto body physical damage appraiser, while
2 engaged in appraisal duties, shall carry on his or her person at all
3 times his or her license. The appraiser shall display such license, upon
4 request, to an owner whose vehicle is being inspected, to the auto body
5 repair facility representative involved, or to any authorized
6 representative of the board.

 324.1246. No auto body physical damage appraiser shall exhibit
2 a pattern or practice of preparing written appraisals underestimating
3 the final costs of repairs by more than ten percent of the final repair
4 invoice. A pattern or practice exists where there are more than
5 isolated occurrences in which the auto body physical damage appraiser
6 prepares written estimates that underestimate the final costs of repairs
7 by more than ten percent. A physical damage appraiser violating the
8 provisions of this section shall be subject to the penalties set forth in
9 section 324.1237.

 324.1249. An estimate prepared by an auto body repair facility
2 with any given flat rate manual or automated appraisal system is
3 subject to audit only by the same manual or system.

 324.1252. No auto body physical damage appraiser or other

2 person shall adjust or change a damage appraisal or estimate when the
3 extent of damage is in dispute without making arrangements for a
4 physical inspection of the motor vehicle with the auto body repair
5 facility.

324.1255. When preparing an estimate of damage, a duly licensed
2 auto body physical damage appraiser shall use an accepted published
3 flat rate manual or automated appraisal system. The flat rate manual
4 or automated appraisal system shall be used in its entirety and without
5 modifications to establish the cost of repairs to a motor vehicle. An
6 auto body physical damage appraiser shall execute the same duty of
7 care when preparing an estimate of damage for a motor vehicle owner
8 in the absence of a licensed auto body repair facility.

✓

Bill

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